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10/728,266	12/04/2003	Matthew P.J. Baker	B 34,320A	7101
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EXAMINER				
MUL GARY				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/728,266

**Applicant(s)**

BAKER, MATTHEW P.J.

**Examiner**

GARY MUI

**Art Unit**

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-7, 9-13 and 15-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-7, 9-13, 15-19, 21-23 and 25-27 is/are rejected.
- 7) ☒ Claim(s) 20 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 17 – 19 and 21 – 23 have been considered but are moot in view of the new ground(s) of rejection.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 3 – 7, 9 – 13, 15, 16, and 25 – 27 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 16 of U.S. Patent No. 6,661,811. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications disclose a method and an apparatus of correcting timing errors when transmitting isochronous data through a packet based communication

network. The current application simply narrows the claims of that found in U.S. Patent No. 6,661,811.

For claims 3 and 4, the claims 1 – 4 of U.S. Patent No. 6,661,811 discloses a method of correcting timing errors when transmitting isochronous data through a packet based communication network in which at least some of the data packets contain timestamps which indicate to a receiver the time at which the data should be processed, the method comprising: inserting transmission timestamps in isochronous data packets which relate to an absolute time as defined by a transmission clock and which are to be transmitted over a transmission network; receiving the data packets and detecting and temporally recording the transmission timestamps therein; providing a receiver clock which is synchronised in frequency but not necessarily in absolute time with the transmission clock; storing the absolute time of the receiver clock when the first packet containing a transmission timestamp is received; adding a given time offset to the stored receiver clock time, the offset being greater than or equal to the maximum variation in time between successive received data packets, to define the output time of the first of the received data packets; subtracting the value of the transmission timestamp in the first received data packet from the transmission timestamp in each subsequently received data packet; and adding the difference between the transmission timestamp of the present data packet and the transmission timestamp of the first data packet to the output time of the first data packet to define the output time of the present packet, wherein the data is MPEG encoded data and the transmission timestamps are separate from and independent of any MPEG timestamps, and the communication system operates according to an IEEE1394 standard (see claims 1, 2, and 4);

wherein the data is transmitted using the Common Isochronous Packet Format defined in IEC61883 (see claim 3).

For claims 5 and 26, the claims 1 – 3 and 5 of U.S. Patent No. 6,661,811 discloses a method of correcting timing errors when transmitting isochronous data through a packet based communication network in which at least some of the data packets contain timestamps which indicate to a receiver the time at which the data should be processed, the method comprising: inserting transmission timestamps in isochronous data packets which relate to an absolute time as defined by a transmission clock and which are to be transmitted over a transmission network; receiving the data packets and detecting and temporally recording the transmission timestamps therein; providing a receiver clock which is synchronised in frequency but not necessarily in absolute time with the transmission clock; storing the absolute time of the receiver clock when the first packet containing a transmission timestamp is received; adding a given time offset to the stored receiver clock time, the offset being greater than or equal to the maximum variation in time between successive received data packets, to define the output time of the first of the received data packets; subtracting the value of the transmission timestamp in the first received data packet from the transmission timestamp in each subsequently received data packet; and adding the difference between the transmission timestamp of the present data packet and the transmission timestamp of the first data packet to the output time of the first data packet to define the output time of the present packet, wherein the data is MPEG encoded data and the transmission timestamps are separate from and independent of any MPEG timestamps, and the communication system operates in Asynchronous Transfer Mode (see claim 1, 2, and 5);

wherein the data is transmitted using the Common Isochronous Packet Format defined in IEC61883 (see claim 3).

For claims 6 and 27, the claims 1 – 3 and 6 of U.S. Patent No. 6,661,811 discloses a method of correcting timing errors when transmitting isochronous data through a packet based communication network in which at least some of the data packets contain timestamps which indicate to a receiver the time at which the data should be processed, the method comprising: inserting transmission timestamps in isochronous data packets which relate to an absolute time as defined by a transmission clock and which are to be transmitted over a transmission network; receiving the data packets and detecting and temporally recording the transmission timestamps therein; providing a receiver clock which is synchronised in frequency but not necessarily in absolute time with the transmission clock; storing the absolute time of the receiver clock when the first packet containing a transmission timestamp is received; adding a given time offset to the stored receiver clock time, the offset being greater than or equal to the maximum variation in time between successive received data packets, to define the output time of the first of the received data packets; subtracting the value of the transmission timestamp in the first received data packet from the transmission timestamp in each subsequently received data packet; and adding the difference between the transmission timestamp of the present data packet and the transmission timestamp of the first data packet to the output time of the first data packet to define the output time of the present packet, wherein the data is MPEG encoded data and the transmission timestamps are separate from and independent of any MPEG timestamps, and the communication system operates according to a Universal Mobile Telecommunications System standard (see claims 1, 2, and 6).

wherein the data is transmitted using the Common Isochronous Packet Format defined in IEC61883 (see claim 3).

For claims 7, 9 – 13, 15, 16, and 25, the claims 7 – 16 of U.S. Patent No. 6,661,811 discloses an apparatus for correcting timing errors when transmitting isochronous data through a packet based communication network in which at least some of the data packets contain timestamps which indicate to a receiver the time at which the data should be processed, the apparatus comprising means for inserting transmission timestamps in isochronous data packets which relate to an absolute time as defined by a transmission clock, means for transmitting the data packets over a transmission network, means for receiving the data packets and detecting and temporarily recording the transmission timestamps therein, a receiver clock which is synchronised in frequency but not necessarily in absolute time with the transmission clock, means for storing the absolute time of the receiver clock when the first packet containing a transmission timestamp is received, means for adding a given time offset to the stored receiver clock time, the offset being greater than or equal to the maximum variation in time between successive received data packets, to define the output time of the first of the received data packets, means for subtracting the value of the transmission timestamp in the first received data packet from the transmission timestamp in each subsequently received data packet, and means for adding the difference between the transmission timestamp of the present data packet and the transmission timestamp of the first data packet to the output time of the first data packet to define the output time of the present packet, in which the means for inserting the transmission timestamps comprises a Cycle Time Register and the data is audio and/or video signals encoded according to an MPEG standard (see claims 7, 8, and 14);

in which a plurality of transmitting and/or receiving devices each containing a Cycle Time Register are connected to an IEEE1394 bus and one of the Cycle Time Registers forms a Cycle Master which transmits a Cycle Start packet to the other Cycle Time Registers to maintain them all in synchronism (see claim 9);

in which the communication system comprises a plurality of IEEE1394 buses coupled by transmission bridge(s) wherein the Cycle Masters on each bus are synchronised in frequency (see claim 10);

in which the bridges are arranged to operate according to the IEEE1394.1 standard (see claim 11);

in which the communication system employs Asynchronous Transfer Mode (see claim 12)

in which the communication system is a Universal Mobile Telecommunications System (UMTS) (see claim 13);

the transmitting means including an MPEG encoder (see claim 15)

the receiver including an MPEG decoder (see claim 16).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 17 – 19 and 21 – 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noro et al. (US 6,175,604 B1; hereinafter “Noro”) in view of Lym et al. (US 6,680,944 B1; hereinafter “Lym”).

For claim 17, Noro teaches processing isochronous time stamped data packets (see column 3 lines 7 – 19; data containing timing indicators); comprising synchronizing in frequency clocks in the transmitting/receiving system (see column 3 lines 20 – 27; transmitter and receiver clocks are close to each other), and relating the time of processing of a currently received transmission time stamped data packet (see column 3 lines 7 – 19; timing value of the currently received is separated from the base signal to reconstruct the time base of the transmitting station). Noro fails to explicitly teach relating the time of processing of a currently received transmission time stamped data packet to the time of processing of a first transmission time stamped data packet (see column 5 lines 14 – 67; dummy packets (first packet) before the actual data (current data) is sent where the presentation time will be calculated). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to relate the packet times as taught by Lym into the system of

Noro. The motivation for doing this is to ensure that packets are properly processed by the receiving device and not get discarded.

For claim 18, Noro teaches storing a given time offset equal to or greater than the maximum variation in time between successive received data packets (see column 5 lines 25 – 30). Noro fails to teach storing the absolute time of receipt of the first transmission time stamped data packet and processing the first transmission time stamped data packet at a time interval corresponding to said given time offset after said absolute time. Lym teaches that a dummy frame time stamp value is stored and that the dummy frame will be processed (see column 6 lines 1 – 50). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to store the values as taught by Lym into the system of Noro. The motivation for doing this is to ensure that packets are properly processed by the receiving device and not get discarded.

For claim 19, Noro teaches a currently received transmission time stamped data packet is processed at a time corresponding to the time difference between the transmission timestamps of the current data packet and first data packet, after the processing of the first data packet (see column 3 lines 7 – 19 and column 5 lines 25 – 30).

For claims 21, Noro teaches transmission means for transmitting isochronous transmission time stamped data packets over the transmission network (see column 3 lines 7 – 19; transmitter transmit data over network to receiver), said transmission means including a transmission clock (see column 3 lines 20 – 28), receiving means for receiving the isochronous transmission time stamped data packets (see column 3 lines 7 – 19; receiver receives data with timing indicators), said receiving means including a receiver clock

synchronized in frequency with the transmission clock (see column 3 lines 20 – 28; receiver with clock that is close to the transmitter clock) and processing means for relating the time of processing of a currently received transmission time stamped data packet see column 3 lines 7 – 19; timing value of the currently received is separated from the base signal to reconstruct the time base of the transmitting station). Noro fails to explicitly teach relating the time of processing of a currently received transmission time stamped data packet to the time of processing of a first transmission time stamped data packet (see column 5 lines 14 – 67; dummy packets (first packet) before the actual data (current data) is sent where the presentation time will be calculated). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to relate the packet times as taught by Lym into the system of Noro. The motivation for doing this is to ensure that packets are properly processed by the receiving device and not get discarded.

For claim 22, Noro teaches means for storing a given time offset equal to or greater than the maximum variation in time between successive received data packets (see column 5 lines 25 – 30). Noro fail sot teach the receiving means comprises means for storing the absolute time of receipt of the first transmission time stamped data packet and wherein the processing means processes the first transmission time stamped data packet at a time interval corresponding to said given time offset after said absolute time. Lym teaches that a dummy frame time stamp value is stored and that the dummy frame will be processed (see column 6 lines 1 – 50). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to store the values as taught by Lym into the system of Noro. The

motivation for doing this is to ensure that packets are properly processed by the receiving device and not get discarded.

For claim 23, Noro teaches the processing means includes means for obtaining the difference between the value of the transmission time stamp of the first data packet and the value of the transmission time stamp of the current data packet and means for adding said difference to the time of processing of a first transmission time stamped data packet (see column 3 lines 7 – 19 and column 5 lines 25 – 30).

#### *Allowable Subject Matter*

7. Claims 20 and 24 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

8. **Examiner's Note:** Examiner has cited particular paragraphs or columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Mui whose telephone number is (571) 270-1420. The examiner can normally be reached on Mon. - Thurs. 9 - 3 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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05/15/2008